

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 23-cr-00040

-vs-

Hon. Jane M. Beckering

BRIAN DENNIS PIERCE,

Defendant.

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**MOTION TO FILE PORTIONS OF SENTENCING MEMORANDUM  
UNDER RESTRICTED ACCESS**

**NOW COMES** the Defendant, BRIAN DENNIS PIERCE (“Mr. Pierce”), by and through his attorney, BEN M. GONEK, and respectfully moves this Court for the entry of an Order allowing him to file certain portions of his sentencing memorandum under restricted access, and in support of said motion says as follows:

1. Mr. Pierce is scheduled to be sentenced upon his plea-based conviction for violation of 18 U.S.C. § 371 on October 18, 2023.
2. On October 9, 2023, undersigned counsel filed a sentencing memorandum on Mr. Pierce’s behalf in order to assist the Court in forming a fuller and fairer picture of Mr. Pierce, and to aid it in reaching the fairest possible sentencing decision.

3. Within Exhibit 1 to the sentencing memorandum, portions of a one-page letter from Mr. Pierce's counseling therapist were redacted since they contained protected or confidential information and sensitive personal data, which, if revealed to the public in general might be harmful to Mr. Pierce or his family.

4. Accordingly, undersigned counsel seeks leave of the Court to file an unredacted version of the memorandum, containing all the information, under restricted access.

5. Pursuant to L.Cr.R. 12.4, a Certificate of Compliance with that Rule is being separately filed contemporaneously herewith.

**WHEREFORE**, Defendant, BRIAN PIERCE, respectfully prays that this Court enter of an Order allowing him to file certain portions of his sentencing memorandum under restricted access, and hereinabove set forth.

Respectfully submitted,

/s/ Ben M. Gonek

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Dated: October 10, 2023

UNITED STATES DISTRICT COURT  
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**BRIEF IN SUPPORT OF MOTION TO FILE PORTIONS OF  
SENTENCING MEMORANDUM UNDER RESTRICTED ACCESS**

As this Court has recognized, *see*, R. E. 78, Order, Page ID # 626, it is appropriate for a defendant to file his or her sentencing memorandum “as a public submission,” but to “seek leave of court to file under restricted access any portions that contain protected or confidential information, or sensitive personal data (social security and tax identification information, names of minor children, dates of birth, financial account numbers, home addresses, medical history, mental health history, and any assistance, if applicable).”

This is precisely what undersigned counsel has done here, and the government does not object to the relief sought. If the Court grants this present motion, the whole of the Mr. Pierce’s sentencing memorandum will continue to be available as a public document, and access restricted to only those relatively brief portions to Exhibit 1

which have the potential to cause harm to Mr. Pierce or his family: portions of a one-page letter from Mr. Pierce's counseling therapist.

Respectfully submitted,

/s/ Ben M. Gonek

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Dated: October 10, 2023

### **CERTIFICATE OF SERVICE**

Ben M. Gonek hereby states that on the 10<sup>th</sup> day of October 2023, he caused the forgoing *Motion to file portions of Sentencing Memorandum Under Restricted Access and Brief in Support* to be filed electronically with the United States District Court and that copies were forwarded to all counsel of record through the ECF System.

/s/ Ben M. Gonek

BEN M. GONEK (P43716)